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08 MAY 2008

Basell USA Inc.
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Wilmington DE 19803

In re Application of :
DAMRAU et al. :
Application No.: 10/532,523 : DECISION ON
PCT No.: PCT/EP03/11679 :
Int. Filing Date: 22 October 2003 : PETITION UNDER
Priority Date: 25 October 2002 :
Attorney Docket No.: 09086-00223-US : 37 CFR 1.497(a)
For: PREPARATION OF PARTIALLY :
HYDROGENATED RAC-ANSA- :
METALLOCENE COMPLEXES :
:

This is a decision on applicant's Petition under 37 CFR 1.497(a) regarding submission of executed Declarations filed on 05 March 2008 in the United States Patent and Trademark Office (USPTO). Applicant's request for a five month extension of time is granted.

BACKGROUND

On 15 September 2005, applicants filed a petition under 37 CFR 1.47(a).

On 23 January 2006, a decision dismissing the petition under 37 CFR 1.47(a) was mailed, indicating that applicant had not demonstrated a diligent effort to locate the nonsigning inventor. Applicant was also advised that an executed declaration, signed on behalf of the joint inventors and the nonsigning inventor, was not found among the papers submitted on 15 September 2005.

On 23 March 2006, applicant submitted a declaration executed by the previously nonsigning inventor Stephanie Duchiron. In response to a telephone call from the undersigned, on 22 August 2006, applicant provided a copy of the declaration, which was executed by six of seven joint inventors.

On 01 September 2007, a decision was mailed to applicant dismissing the petition under 37 CFR 1.47(a) as moot and indicating that newly executed declarations were required.

On 25 February 2008, a Notification of Abandonment was erroneously mailed to applicant, indicating that applicant had failed to respond to the Notification of Missing Requirements.

On 07 March 2008, applicant filed a petition under 37 CFR 1.497(a) along with six newly executed declarations and a request for a five month extension of time.

DISCUSSION

Applicant submitted six complete declarations. Upon review, five declarations are in compliance with 37 CFR 1.497(a) and executed by one or more inventors. Thus, these declarations are now acceptable.

However, one declaration indicated the name of fourth inventor "Stephanie Gyppaz (maiden name Stephanie Duchiron)" and was signed as Stephanie Gyppaz. However, the published international application identified the inventor as Stephanie Duchiron. No explanation was provided.

A petition under 37 CFR 1.182 is required to accept the change in the name of the inventor. As explained in MPEP 605.04(c), applicant must provide a signed affidavit setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. The declaration, indicating Stephanie Duchiron as an inventor, is not in compliance with 37 CFR 1.497 and unacceptable at this time.

The requirements of 37 CFR 1.497(a) and (b) have not been met and the declaration executed by Stephanie Gyppaz is unacceptable at this time.

CONCLUSION

The 25 February 2008 Notification of Abandonment is hereby **VACATED**.

Five declarations submitted on 05 March 2008 are in compliance with 37 CFR 1.497(a) and (b) and are acceptable. However, as set forth above, a petition under 37 CFR 1.181 is required.

The application will be held in the Office of Patent Cooperation Treaty Legal Administration to await applicant's further reply.


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